IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

Crl.MC.No. 2803 of 2007()

CC.454/2006 of J.F.C.M, KOTHAMANGALAM

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PETITIONER: IST ACCUSED IN C.C. 454/06

DR.SHAJI.V.KUDIYAT,S/O. VARKEY,
MALAYINKEEZHU,KOTHAMANGALAM.

BY ADV. SRI.P.P.JACOB

RESPONDENTS: COMPLAINANT IN C.C. 454/2006

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1. ROSILY SHAJI,
SHAIMA QUARTERS, THANKALAM, KOTHAMANGALAM.

2. STATE OF KERALA REP. BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.KAMMAPPU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2803 of 2007

Dated this the 6th day of September 2007

O R D E R

The petitioner is the first accused and he faces indictment in a prosecution inter alia under Section 498A I.P.C. He, along with the co-accused has come to this court earlier for quashing the proceedings against him but that prayer was rejected as per order dated 14/6/2007 in Crl.M.C.No.2384/06. Observations were made that the accused persons can apply for exemption and stake their claims for discharge at the stage of Section 245 (1) and 245(2) Cr.P.C as the case may be. The petitioner, along with the co-accused subsequently surrendered before the learned Magistrate. The learned Magistrate granted bail to the petitioner but subject to the rider that the petitioner must surrender his passport before the learned Magistrate. The learned counsel for the petitioner submits that the imposition of the condition that the petitioner must surrender his passport is causing great hardship and loss to the petitioner. The petitioner has to go abroad. He is likely to lose his employment. He is unable to return. In these circumstances, subject to any appropriate conditions, it may be ensured that the passport surrendered by the petitioner is released to the petitioner and he

is permitted to go abroad. The petitioner undertakes that he shall appear before the learned Magistrate as and when directed provided three months prior notice is given to the petitioner.

2. Having considered all the relevant inputs, I reckon the said prayer to be absolutely justified. Subject to appropriate further safeguards, the passport surrendered by the petitioner can be directed to be released to him.

3. In the result, this petition is allowed. The passport surrendered by the petitioner shall be released to the petitioner on the following further conditions:

The petitioner shall execute a bond for Rs.1,00,000/- (Rupees one lakh only) with two solvent sureties each for the like sum undertaking to appear before the learned Magistrate as and when specifically directed by the learned Magistrate to so appear, provided three months prior notice is given to the learned counsel for the petitioner.

4. I make it clear that the learned Magistrate should not insist on the personal presence of the petitioner unless if it be absolutely necessary for the progress of the trial in the case.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007